

Permitting & Assistance Branch Staff Report
Solid Waste Facilities Permit Revision for the Fairmead Landfill
SWIS No. 20-AA-0002
November 3, 2011

Background Information, Analysis, and Findings:

This report was developed in response to the Madera County Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery's (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit for the Fairmead Landfill, SWIS No. 20-AA-0002 located in Chowchilla, operated by the Madera Disposal Systems, Inc., and owned by the County of Madera Department of Engineering and General Services. A copy of the proposed permit is attached. This report contains the Permitting and Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was last received on October 21, 2011. Other permits were received on July 13, July 25, August 4, and August 31, 2011. Action must be taken on this proposed permit no later than December 20, 2011. If no action is taken by December 20, 2011, the Department will be deemed to have concurred with the issuance of the proposed revised permit.

Proposed Changes

The following changes to the permit are being proposed:

	Current Permit (2005 SWFP)	Proposed Permit
Permitted Boundary Area	121.17 acres	122.7 acres
Permitted Disposal Area	77 acres	98.5 acres
Permitted Traffic Volume	440 vehicles per day	Refer to JTD - Traffic is regulated pursuant to 27 CCR 20860
Permitted Capacity	9,400,000 cubic yards	13,186,000 cubic yards
Max. Depth	65 ft	85 ft
Permitted Elevation (ft AMSL)	325	370
Permitted Hours of Operation:	Operators: Monday – Friday, 7:00 a.m. to 7:00 p.m.	Operator (receipt of waste): Monday – Friday, 6:00 a.m. to 7:00 p.m. (public receipt and prison personnel receipt hours remain the same)
Estimated Closure Date	2033	2028
Findings	a. This permit is consistent with the Madera County Integrated Waste Management Plan, which was approved by the CIWMB on November 15, 1999. The location of the facility is identified in the Countywide Siting Element, pursuant	a. This permit is consistent with the Madera County Integrated Waste Management Plan, which was approved by the CIWMB (now CalRecycle) on November 15, 1999. The location of the facility is identified in the Countywide Siting Element,

	<p>to Public Resource Code (PRC), Section 50001(a).</p> <p>b. This permit is consistent with the standards adopted by the CIWMB, pursuant to PRC 44010.</p> <p>c. The design and operation of the facility is consistent with the State Minimum Standards for Solid Waste Handling and Disposal as determined by the LEA pursuant to PRC 44009.</p> <p>d. The Madera County Fire Department has determined that the facility is in conformance with applicable fire standards as required in PRC Section 44151.</p> <p>e. An Environmental Impact Report was filed with the State Clearinghouse (SCH #2001031048) and certified by the Madera County Board of Supervisors on July 6, 2004. A Notice of Determination was filed with the State Clearinghouse on August 12, 2004.</p>	<p>pursuant to Public Resource Code (PRC), Section 50001(a).</p> <p>b. This permit is consistent with the standards adopted by the CalRecycle, pursuant to PRC 44010.</p> <p>c. The design and operation of the facility is consistent with the State Minimum Standards for Solid Waste Handling and Disposal as determined by the LEA pursuant to PRC 44009.</p> <p>d. The Madera County Fire Department has determined that the facility is in conformance with applicable fire standards as required in PRC Section 44151.</p> <p>e. An Environmental Impact Report (SCH# 2001031048) was certified on July 6, 2004. A Mitigated Negative Declaration (MND) was filed with the State Clearinghouse (SCH#2010031037) on March 8, 2010 and the comment period ended on March 29, 2010</p>
Documents	<p>Report of Disposal Site Information Amendments (Includes future Revision approved by the LEA) 3/3/05</p> <p>Waste Discharge Requirements. Order No. R5-2004-0161...11/15/04</p> <p>APCD Permit to Operate #C-2913-1-2 3/31/09</p> <p>Environmental Impact Report (SCH#2001031048) 7/6/04</p> <p>Preliminary Closure / Post Closure Maintenance Plan 3/30/2004</p> <p>Closure Financial Assurance Documentation 3/17/05</p>	<p>Joint Technical Document (Includes future Revision approved by the LEA) 2/2011</p> <p>Waste Discharge Requirements. Order No. R5-2004-0161...11/15/04</p> <p>APCD Permit to Operate #C-2913-1-2 3/31/14</p> <p>Environmental Impact Report (SCH#2001031048) 7/6/04</p> <p>Mitigated Negative Declaration (MND) filed with State Clearinghouse (SCH# 2010031037)</p> <p>Preliminary Closure / Post Closure Maintenance Plan 2/2010</p> <p>Closure Financial Assurance Documentation 6/1/11</p>

	Operating Liability Certification 3/18/05 Land Use or Conditional Use Permit 7/6/04 Owner/Operator Contract Agreements 6/28/04	Operating Liability Certification 3/18/05 Land Use and/or Conditional Use Permit No 8, CUP #2009-004 8/4/09 Owner/Operator Contract Agreements 6/28/04
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Findings:

All of the submittals and findings required by Title 27, Section 21685 have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings are summarized in the table below. The documents on which staff's findings are based have been provided to the Branch Chief with this staff report and are permanently retained in the facility files maintained by the Division.

CCR Title 27 Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification on February 7, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	The LEA completed a Five Year Permit Review on September 2, 2010, and provided a copy to the Department on September 13, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facilities Permit	The LEA submitted the proposed solid waste facilities permit on October 21, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on July 13, 2011, provided a finding that the facility is consistent with PRC 50001 and Waste Evaluation & Enforcement Branch (WEEB) in the Jurisdiction Product & Compliance Unit found the facility is identified in the Siting Facility Element and with the Countywide Integrated Waste Management Plan, as described in the memorandum dated August 4, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(5) Preliminary or Final Closure/ Postclosure Maintenance Plans Consistency with State Minimum Standards	Closure and Facility Engineering Unit staff in the Engineering Support Branch found the Preliminary Closure/ Postclosure Maintenance Plan is consistent with State Minimum Standards as described in their memorandum dated July 26, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b) (7) (A) Financial Assurances Documentation Compliance	The Financial Assurance Unit in the Permitting & Assistance Branch staff found the Financial Assurances Documentation in compliance as described in their memorandum dated August 25, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(7)(B) Operating Liability Compliance	The Financial Assurance Unit in the Permitting and Assistance Branch staff found the Operating Liability	<input checked="" type="checkbox"/> Acceptable

CCR Title 27 Sections	Findings	
	in compliance as described in their memorandum dated August 25, 2011.	<input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	The Enforcement Agency Compliance Unit staff in WEEB found that the facility was in compliance with all operating and design requirements during an inspection conducted on August 2, 2011. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on July 13, 2011, that the proposed permit is consistent with and supported by the existing CEQA documentation. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and or Meeting, Comments	The LEA held an informational meeting on June 1, 2011. No oral or written comments were received by the LEA or Department staff.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project, a proposed revised Solid Waste Facilities Permit. Permits staff has determined that the CEQA record can be used to support the Branch Chiefs' action on the proposed revised permit. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

The facility was inspected by Waste Evaluation & Enforcement Branch staff and the LEA on August 2, 2011. The LEA and CalRecycle's Inspection Reports for this inspection had one violation of Gas Monitoring and Control (27 CCR 20921).

In accordance with Section 27 CCR 20921, the concentration of methane gas migrating from the disposal site must not exceed 5% by volume in air at the disposal site permitted facility boundary or an alternative boundary.

Based on the operator's and LEAs gas monitoring results, gas probe (GP) 9R has exceeded 5% methane by volume in air since June 1, 2010. On December 8, 2010, the LEA issued a Notice and Order to the owner to control methane in GP 9R, with a final compliance deadline of September 20, 2012. In March 2011, GP 8R was identified as exceeding 5% methane by volume in air as noted in the operator's and LEAs gas monitoring results. On June 13, 2011, the LEA requested approval from CalRecycle to extend the date on the Notice and Order. The extension to the Notice and Order was approved by CalRecycle with a final compliance deadline of February 5, 2013. The landfill was placed on the Inventory of Solid Waste Facilities Violating State Minimum Standards on November 17, 2010.

Two remediation plans have been submitted to CalRecycle for approval. The first plan was submitted on August 5, 2010 and the amendment November 20, 2010, which was approved on December 6, 2011. After the exceedance in GP 8R was confirmed in March 2011, a revised

remediation plan was received by CalRecycle . The second remediation plan was submitted on May 6, 2011, and approved by CalRecycle on June 13, 2011.

In summary, the LEA has documented the following violations of State Minimum Standards during the past five years:

- In 2011, seven violations each of Gas Monitoring and Control (27 CCR 20921) were documented through July;
- In 2010, seven violations of Gas Monitoring and Control (27 CCR 20921) and three violations of Reporting and Control of Excessive Gas (27 CCR 20937) were noted;
- There were no violations noted in 2009;
- There were no violations noted in 2008;
- In 2007, two violations of Disposal Site Records (27 CCR 20510); and
- In 2006, three violations of Intermediate Cover (27 CCR 20700).

For the purpose of CalRecycle's determination to concur in or to object to a proposed permit for a facility that has landfill decomposition gases exceeding the compliance levels in Title 27 Section 20921, the facility shall be considered to be consistent with State Minimum Standards specified in Section 20921 if all of the following requirements have been satisfied with respect to the facility:

1. The operator has delivered all notices to the EA and owner as required pursuant to Sections 20919, 20919.5 and 20937. *Status: The Madera County LEA, has received the applicable notices.*
2. The EA shall have forwarded to CalRecycle all notifications received. *Status: CalRecycle has received the applicable notices.*
3. Landfill gas monitoring has been and is being conducted at least monthly. *Status: The Madera County LEA and/ or the operator has conducted monthly monitoring since July 2010, when elevated concentrations of methane were detected in one of the gas monitoring wells.*
4. The EA has determined that landfill decomposition gas generated by the facility does not constitute an imminent and substantial threat to public health and safety or the environment. *Status: The Madera County LEA confirmed their determination that there is no imminent and substantial threat to public health and safety or the environment in an email dated June 7, 2011.*
5. The EA has determined that to come into compliance it will take the operator longer than 90 days due to the time it takes to plan and implement appropriate corrective measures. *Status: The Madera County LEA made the finding in the Notice and Order issued to the operator, which has a compliance date of February 5, 2013.*
6. The facility is operating under an enforcement order issued to the operator that meets all the requirements. *Status: The Madera County LEA, issued a revised Notice and Order to the operator on December 8, 2010. The compliance dates in the Notice and Order have been extended until February 5, 2013 .*
7. The EA has reviewed and approved and CalRecycle has reviewed all investigation reports or results, proposed work plans, or proposed gas mitigation measures. *Status: CalRecycle and the*

LEA, received, reviewed and approved the updated gas remediation plan submitted by the operator . CalRecycle approved the current version of the plan in an email dated June 13, 2011.

8. The operator is in compliance with the approved gas mitigation measures or work plans approved by the EA and specified in the enforcement order. *Status: The operator is in compliance with the remediation plan and there has been no need to enforce the notice and order requirements through the implementation of penalties.*

9. For facilities that propose a facility property boundary expansion, footprint is expanding, or any other increase in facility capacity as part of the permit application, investigations or analyses respecting landfill decomposition gases at the facility must have been conducted by the operator prior to the submittal of the permit application to the EA. *Status: After becoming aware that this requirement was applicable for this permit revision, the operator provided analyses done by their consultant, which indicates that the proposed expansion will not increase the magnitude or complexity of noncompliance with the landfill gas standards and will not cause impacts to water or air quality. The analyses were provided in a memorandum from BAS, consultant to the operator, to Phil Hudecek of the Local Enforcement Agency, which was dated October 17, 2011.*

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed revised SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize environmental documents prepared by the Madera County Planning Department, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The Madera County Planning Department, acting as Lead Agency, prepared a Draft Environmental Impact Report, State Clearinghouse No. 2001031048, which was circulated for a 45-day review period from March 7, 2003 through March 21, 2003. The EIR was certified by the Madera County Board of Supervisors on July 6, 2004. The Environmental Impact Report analyzed for an expansion of the Fairmead Landfill and the Mammoth Materials Recovery Facility, which is a separately permitted facility. The expansion included an increase in the peak tonnage of the landfill to 1200 tons per day. The EIR included analysis of increasing the permitted boundary to up to 145.63 acres (after additional properties are purchased), an increase in peak elevation from 310 feet above mean sea level to 330 feet above mean sea level, and an increase in the closure date from 2029 to 2038.

The Madera County Planning Department, acting as Lead Agency, prepared an Initial Study/Mitigated Negative Declaration, State Clearinghouse No. 2010031037, which was circulated for a shortened 20 day review period from March 8, 2010 through March 29, 2010. The Initial Study/Mitigated Negative Declaration analyzed for an increase in peak elevation from the then 325 feet above mean sea level to 370 feet above mean sea level, an increase in commercial hours for receipt of waste from 7 am to 7 pm Monday through Friday to 6 am to 7 pm; weekend hours for receipt of waste will remain the same 8 am to 6 pm.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the environmental documents prepared by the Lead Agency in that there are no grounds under

CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the Permit.

Department staff further recommends the Final EIR and Mitigated Negative Declaration, is adequate for the Branch Chief's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed Revised Solid Waste Facilities Permit and all of its components and supporting documentation, this staff report, the Environmental Impact Report certified by the Board of Supervisors, the Mitigated Negative Declaration adopted by the Board of Supervisors, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed Revised Solid Waste Facilities Permit. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812.

Local Issues:

The project document availability, hearings, and associated meetings were consistent with the SWFP requirements. A review from the public process indicates that environmental justice issues were not identified by the surrounding community (Census Tract 2). The 2005-09 American Community Survey 5-Year Estimates indicates that the surrounding population is approximately 63.1 % white, 15.4% black or African American, American Indian and Alaska Native 1.6%, 1.7% Asian, 2.4, 0.3 Native Hawaiian and Other Pacific Islander, 11.2% identified as some other race, and 4.3% identified being two or more races. Of the total population 38.4% described themselves as Hispanic or Latino and 15.7% of the families in the Census Tract were below the poverty level. Staff finds the project and permit process to be consistent with Government Code Section 65040.12, as there has been fair treatment of people of all races, cultures, and incomes with respect to the proposed action being recommended above.

Public Comments:

The LEA did not receive any comments from the posted public notice, the mailed notice provided to all property owners within 1,000 feet of the facility, or at the public information meeting on May 5, 2010, and June 1, 2011. No oral or written public comments have been received by the Department or LEA staff.

Department Staff Actions:

Staff interacted with both the LEA and representatives of the operator throughout the permit process. After the permit application was accepted by the LEA, but before the proposed permit was prepared by the LEA, an additional landfill gas was determined to be impacted by landfill gas in excess of five percent (details above in the Compliance History section). Engineering Services Branch staff and Permits and Assistance Branch staff worked extensively with the LEA and operator to revise and approve the facility's gas remediation plan. The operator agreed to waive the LEA's statutory permit timelines in a letter dated May 5, 2011.

Subsequent to the landfill gas issue, an issue was identified concerning an approximately one acre parcel of the property, which was found to be not yet owned by the operator. Known as the "Church property," this parcel is being condemned under a local eminent domain process. This process is currently unopposed and is expected to be concluded within six months to a year. In a conference call on September 26, 2011, emails and telephone calls before and after that date, and

conversations at the Fresno Roundtable, CalRecycle staff worked with the LEA to craft wording in the proposed permit that would allow uninterrupted operation of the facility and inclusion of the property into the permit, without the need for a permit revision in the near future.

Additionally, as with all permits, staff responded to questions from the LEA regarding the permit process timelines and requirements, and attended the pre-permit inspection. The Department provided an opportunity for public comment during the Monthly Public Meetings held on July 12, 2011, August 9, 2011, September 20, 2011, and October 18, 2011.